SUPREME COURT U. S.

OCT 25 1974

MICHAEL RODAK, JR., CLE

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-1446

JOAN ROE, PETER POE, AND COE PRESS, INC.,
Petitioners,

v.

JANE DOE,
Respondent.

On Writ of Certiorari to the Court of Appeals of the State of New York

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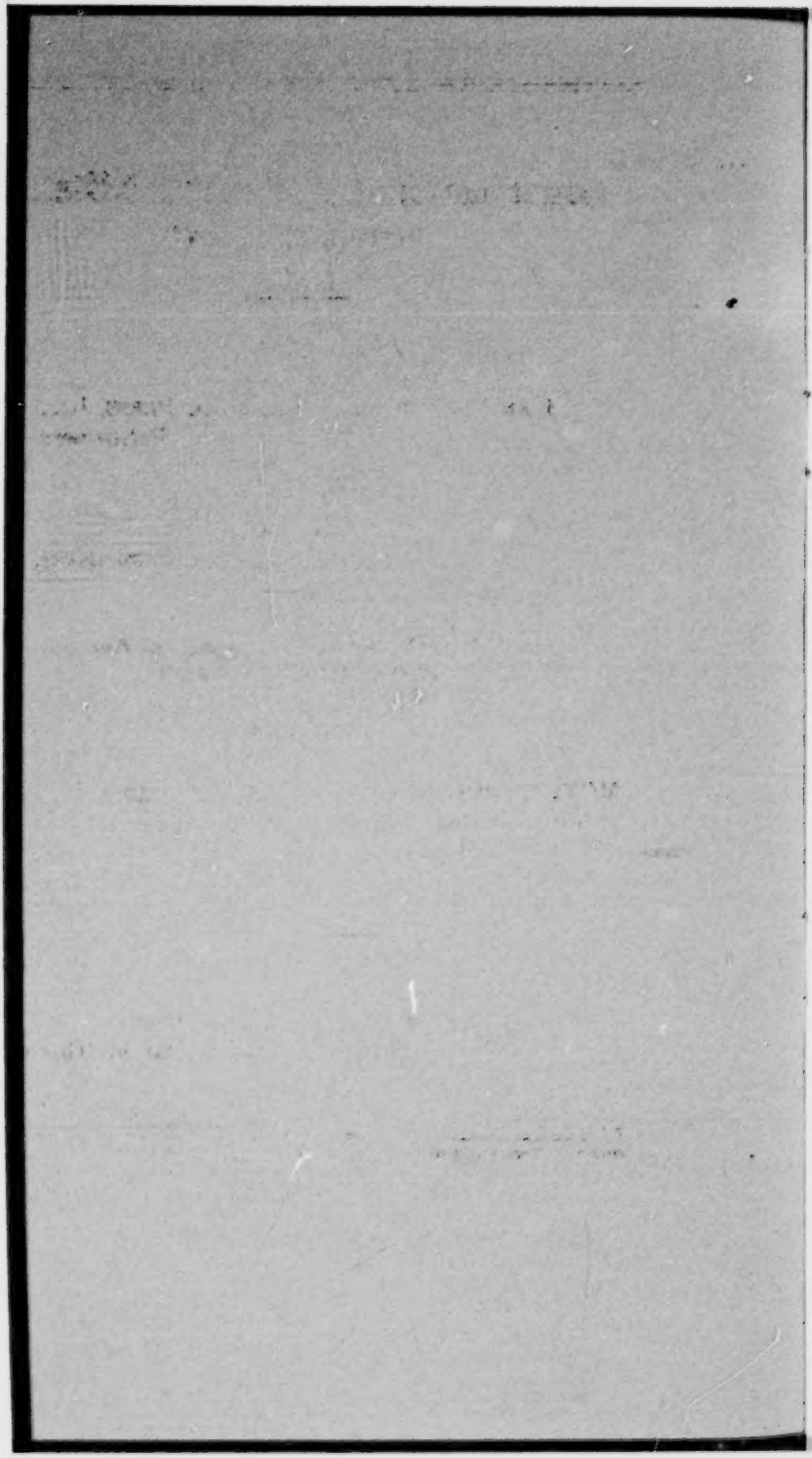
MOTION FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AND TO APPEAR *PRO HAC VICE*

JOSEPH ONEK
1751 N Street, N.W.
Washington, D.C. 20036
[Member of the Bar of This Court]

WILSON - EPES PRINTING CO., INC. - RE 7-6002 - WASHINGTON, D. C. 20001



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TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Amici Curiae, the American Psychiatric Association, the American Psychoanalytic Association, and the American Orthopsychiatric Association, respectfully move the Court for leave to participate in oral argument in the above entitled case, and further respectfully request that Paul Richard Friedman be permitted to appear *pro hac vice* to present oral argument on their behalf. The following reasons are submitted in support of this motion:

1. *Amici Curiae* filed with this Court a motion for leave to submit a brief *amici curiae* in the above-mentioned case, which was granted on October 21, 1974.

2. As indicated in *Amici's* brief in this case, *Amici* organizations represent more than 25,000 mental health professionals, primarily psychiatrists, who are concerned with the care and treatment of those in this country who need mental health assistance. As is set forth more fully in *Amici's* brief, unless patients in psychoanalytically-oriented psychotherapy are guaranteed confidentiality, this therapy cannot be successful, and patients will be unwilling to seek the psychotherapeutic treatment necessary for restoration of their mental health.

3. *Amici* also have a keen interest in the advancement of scientific learning through the publication of case studies. The case study is a unique method of presentation because it allows for detailed explication of therapeutic techniques in the context of real, rather than hypothetical, patient responses. Commencing with Freud, great contributions to our knowledge of mental processes have resulted from this form of presentation.

4. Should this Court decide to rule upon the merits at this time, *Amici* have valuable expertise which is relevant to the resolution of the conflict between the assurance of confidentiality required for effective psychotherapy and the ability to propagate ideas and further scientific knowledge through publication. Although *Amici* support respondent on the merits in this case, their legal analysis differs from respondent's in a number of important respects. *Amici* recognize the vital importance both of insuring confidentiality and of advancing scientific knowledge through the publication of case studies, and seek to assist the Court in resolving the conflict between these two interests so as to further each of them to the greatest extent possible.

5. However, *Amici* submit that because of the fundamental interests at stake and in view of the incompleteness of the record below, this Court should dismiss the writ of *ceritorari* either because the preliminary injunction issued below is not a final judgment as required for this Court's jurisdiction under 28 U.S.C. § 1257, or on the grounds that the writ of *certiorari* was improvidently granted. Neither petitioner nor respondent have addressed these important jurisdictional issues in their briefs.

6. Since *Amici* have raised jurisdictional issues which neither of the parties has addressed, they request that an additional fifteen minutes be granted so that they may participate in oral argument without utilizing the time presently allotted to the parties. Respondent has rejected *Amici's* request to share respondent's allotted time, but support this motion for leave to participate in oral argument with separate time.

7. *Amici* mental health organizations expressly request that Paul Richard Friedman present oral argument on their behalf.

8. Mr. Friedman graduated from Yale University Law School in June, 1970, and has been Managing Attorney of the Mental Health Law Project since 1972. He was admitted in 1972 to practice before the Courts of the District of Columbia and the United States Courts of Appeals for the District of Columbia Circuit and the Fifth Circuit. He is also a research candidate in training at the Baltimore-District of Columbia Institute for Psychoanalysis.

9. Mr. Friedman has been primarily responsible for the preparation of *Amici's* brief, and is the counsel most thoroughly acquainted with the cases, statutes and policies which support *Amici's* legal arguments.

Respectfully submitted,

JOSEPH ONEK
1751 N Street, N.W.
Washington, D.C. 20036
[Member of the Bar of This Court]

I, Joseph Onek, hereby certify that a copy of the foregoing Motion was mailed, postage prepaid, on this — day of October, 1974, to:

Ephraim S. London, Esq.
575 Madison Avenue
New York, New York 10022

Marvin M. Karpatkin, Esq.
1345 Avenue of the Americas
New York, New York 10019

JOSEPH ONEK